

STATE OF MICHIGAN
COURT OF APPEALS

FENGMEI LI,

Plaintiff-Appellant,

v

KURT T. KOEHLER,

Defendant-Appellee.

UNPUBLISHED

January 24, 2012

No. 302244

Washtenaw Circuit Court

LC No. 10-1189-NM

Before: BECKERING, P.J., and OWENS and SHAPIRO, JJ.

PER CURIAM.

In this legal malpractice case, plaintiff appeals by right the trial court's order granting defendant's motion for summary disposition. She argues that summary disposition should not have been granted because there is evidence that defendant deliberately harmed her. We disagree, and affirm.

Defendant briefly represented plaintiff on a pro bono basis in her lawsuit and settlement negotiations against her former employer. She had already received a \$10,000 settlement offer before defendant began working with her on November 30, 2009. Defendant submitted an \$87,000 counter-offer on plaintiff's behalf on December 2, to which the employer responded with a \$20,000 offer. Defendant advised plaintiff to take this offer, indicating that he believed that the new offer was a "take it or leave it" offer. Plaintiff instead instructed him to make a counter offer of \$80,000.

When the employer responded with an offer of \$25,000, defendant advised plaintiff to make a counter-offer of \$31,000, because he believed the employer's upper limit was around \$30,000. Because defendant was travelling, plaintiff herself sent a counter-offer seeking an after tax amount of \$50,000. On the morning of December 4, 2009, plaintiff fired defendant and proceeded to finish negotiating the settlement on her own. Neither party has explicitly stated the final settlement amount, but it appears to have been slightly less than \$50,000 after taxes.

Plaintiff filed suit, claiming that defendant deliberately withheld information from her and pressured her to accept a settlement for less than her case was worth. The trial court granted defendant's motion for summary disposition, finding that there was no genuine issue of fact regarding whether any loss suffered by plaintiff was caused by defendant. This Court reviews de novo a trial court's decision on a motion for summary disposition. *Auto Club Group Ins Co v Burchell*, 249 Mich App 468, 479; 642 NW2d 406 (2001).

We agree with the trial court's reasoning in this case. Even assuming for the sake of argument that defendant's actions while representing plaintiff did not meet the standard required of an attorney, he cannot be held responsible for plaintiff's actions after she fired him. Plaintiff completed the negotiations on her own, and stated on the record that she was proceeding without counsel because she wanted to settle the case. Plaintiff showed sufficient independence of mind to terminate defendant's services, so no reasonable jury could find that defendant forced her to accept a smaller settlement amount than she wanted. We also note that there is no evidence before us to support plaintiff's argument that she could have obtained either a larger settlement or jury verdict in this case.

Affirmed.

/s/ Jane M. Beckering

/s/ Donald S. Owens

/s/ Douglas B. Shapiro